REMARKS

Claims 1-18 remain pending in the application including independent claims 1 and 11. New dependent claims 19-20 have been added.

Claims 1, 2, 6, 8, and 9 stand rejected under 35 U.S.C. 102(e) as being anticipated by Creguer (US 6541929). Claim 1 recites a method of controlling a first window lifter motor that closes a first window pane and a second window lifter motor that closes a second window pane wherein the method steps (a), (b), (c), and (d) are performed by a control module. Cregeur does not disclose the features set forth in claim 1.

The examiner previously admitted that Cregeur did not have a controller that performed the steps of claim 1, and argued that based on a broad interpretation of Creguer a vehicle occupant could perform the steps of Cregeur by manually operating the window switches. See last line of Page 12 to first 2 lines of Page 13 of the final rejection dated April 15, 2005. Applicant proposed an amendment to the claims to clarify that the steps were performed by a control module as opposed to manual operation of switches by a vehicle occupant. The examiner refused entry of the amendment indicating that it would raise new issues for consideration. Applicant then filed the present RCE application.

Now the examiner argues that Cregeur discloses a controller 40 (Figure 1) that controls the motor and windows. However, the controller 40 clearly does not perform the steps identified in claim 1. For example, claim 1 recites the control module moves the first window pane to an approximately closed position if the second window pane is approaching the fully closed

position. There is no teaching in Cregeur that the controller 40 moves a first window pane to an approximately closed position when a second window pane is approaching a fully closed position.

Instead, Cregeur discloses a window control system in which all four vehicle windows can be lowered by a small amount when the vehicle is parked to permit increased air flow. Cregeur further discloses that the window control system is capable of closing all vehicle windows without having to actuate all four window switches. See column 1, lines 41-49. There is no teaching in Cregeur of separately controlling individual window panes based on relative positions of the window panes.

Cregeur teaches that in response to actuation of one of the switches 52-58, the controller 40 energizes the associated motor to move the associated widow panel in the desired direction. In response to a momentary actuation of at least two of the switches 52-58, the controller 40 lowers all of the window panes 12-18 to a slightly open position, or the controller 40 raises all of the windows to a fully closed position depending on the direction desired. If the two switches are both simultaneously and momentarily activated, then a direction of movement is determined at step 212. If a closing direction is indicated, then the windows are all driven by their respective motors until all windows are fully closed. If an opening direction is indicated then all of the windows will be opened by a small amount to increase air flow.

The examiner argues that Cregeur discloses checking when the first or second window pane is approaching a fully closed position by using a position sensor 62, citing col. 3, lines 10-

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40. Applicant disagrees. This section of Cregeur describes motor position sensors that are used to determine window position during operation. Further, the window position determination is specifically linked to identifying a control for *opening* each of the windows to a slightly open position, i.e. one centimeter. There is absolutely no disclosure of using these sensors to check if a window pane is *approaching* a fully closed position.

The examiner further argues that Cregeur discloses using the switches to move the first window pane to an approximately closed position if the second window panel is approaching the fully closed position, citing col. 2, lines 49-67; col. 3, lines 1-20, 62-67; and col. 4, lines 1-10. Again, applicant disagrees. Each of these sections of Cregeur refers to *manual* movement of the switches. There is absolutely no disclosure in Cregeur of using a control module to move one window pane to an approximately closed position if another window pane is approaching the fully closed position. Cregeur clearly teaches a method in which all four windows are simultaneously moved into a fully closed position.

With regard to claim 6, the examiner argues that the features of claim 6 are set forth at col. 3, lines 10-40. Applicant disagrees. Claim 6 defines the approximately closed position as corresponding to a position where at least one of the first and second window panes contacts a corresponding seal with low force. The section indicated by the examiner makes no mention of an approximately closed position being a position where there is contact with a window seal. In fact, this section of Cregeur makes no mention of a seal, let alone mentioning window contact with a seal.

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With regard to claims 8 and 9 the examiner argues that Cregeur discloses a step of moving the first window pane to the fully closed position by pressing the first window pane against a seal until blocking of the window lifter motor occurs, citing col. 3, lines 10-40. This section of Cregeur does not support the examiner's assertion as there is no mention of a seal or window pane engagement with a seal. Thus, for the many reasons set forth above, the rejection of claims 1, 2, 6, 8, and 9 under 35 U.S. 102(e) is improper and must be withdrawn.

Claims 3-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Creguer in view of Ikeda (JP 10-102905). For the reasons set forth above, Cregeur does not disclose, suggest, or teach the claimed invention. Ikeda does not make up for the deficiencies of Cregeur.

Further, there is no motivation or suggestion to modify the references in the manner suggested by the examiner. The examiner argues that it would be obvious to use Cregeur's system with Ikeda's power window device to that there would be a system to detect obstruction and retain data. Applicant disagrees.

Cregeur was seeking to provide a simplified control system for simultaneously opening all windows for air venting. Ikeda discloses a traditional obstacle detection system. Neither reference discloses, suggests, or teaches the claimed features.

The examiner's arguments consist of verbatim repeating of applicant's claim language with referrals to citations, i.e. column and line number designations, in the prior art. However, as explained above, the areas of the prior art to which the examiner refers has nothing to do with the claim language. The examiner seems to be engaging in a hindsight reconstruction of the claimed

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invention, using applicant's structure as a template and selecting elements from the references to fill the gaps. The references themselves must provide some teaching whereby applicant's combination would have been obvious. In re Gorman, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). Applicant respectfully asserts that one of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to combine these references so as to arrive at the subject matter of claim 1 other than through the luxury of hindsight accorded one who first viewed applicant's disclosure.

Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Cregeur in view of Ikeda (JP 10-102905) and further in view of Itoh (US 4870333). For the reasons set forth above, Cregeur and Ikeda do not disclose, suggest, or teach the claimed invention. Itoh does not make up for the deficiencies of Cregeur and Ikeda.

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Cregeur in view of Kurihara et al. (US 4536687). For the reasons set forth above, Cregeur does not disclose, suggest, or teach the claimed invention. Kurihara does not make up for the deficiencies of Cregeur.

Claims 11-12 and 15-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda (JP 10-102905). The examiner has provided what appears to be a machine generated translation of the Ikeda reference. The translation is not complete, is difficult to understand, and often does not even make sense. For the reasons set forth below, applicant respectfully asserts that Ikeda does not disclose the features set forth in claims 11-12 and 15-18.

If the examiner continues to apply the Ikeda reference against the claims, applicant requests that the examiner obtain a proper translation of the reference such that applicant and examiner can fully understand the teachings of Ikeda. See Ex parte Gavin, 62 USPQ2d 1680 (U.S. Patent and Trademark Office Board of Patent Appeals and Interferences, 2001). "... [O]btaining translations is the responsibility of the examiner. A review by the examiner and applicant of translations of the prior art relied upon in support of the examiner's rejection may supply additional relevant evidence on issues of anticipation and obviousness ... and may eliminate the need for an appeal."). Id. at 1684.

The examiner argues that Ikeda discloses a blocking signal generator 18 that generates a blocking signal when a sensor 24 indicates that one of the window panes is approaching a fully closed position. Applicant disagrees.

Ikeda sets forth a conventional method for detecting an object in the path of a window pane to avoid injuries to an occupant's hand, for example. As applicant best understands the partial translation, element 18 of Ikeda comprises a termination control means that detects the insertion of an obstacle in the path of a moving window pane. See [0022]. Applicant's invention is not directed to a method for detecting an obstruction.

Claim 11 includes the feature of a blocking signal that is generated when a window pane is approaching a fully closed position. The blocking signal is not associated with an object being present in the path of the moving window pane. Further, generation of the blocking signal does not necessarily result in slowing or stopping of the window pane. The blocking signal is

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generated such that the control module knows that the associated window pane is approaching the fully closed position.

Ikeda clearly does not disclose this feature. Instead, Ikeda discloses an obstruction detection system where, as soon as an obstruction is detected, operation of the drive motor is suspended. This data is then stored in memory to improve subsequent obstruction detections. The "blocking signal generator 18" that the examiner refers to is associated with an increase in load on the motor as the motor attempts to move the window pane to a fully closed position. When an occupant's hand is pushing down on an upper edge of a window pane, the motor continues to run in an attempt to move the window pane to a fully closed position, but the window cannot move the fully closed position because the hand is in the way. Eventually, the load on the motor increases to a level where the system recognizes that the hand is in the way, and operation of the motor is suspended. See [0022] to [0026].

The blocking signal generator 18 that the examiner argues corresponds to applicant's claimed "blocking signal" is not generated in response to the window pane moving toward a fully closed position as claimed. Instead the examiner's blocking signal generator 18 generates a signal when a motor load exceeds a threshold value.

The examiner also argues that the controllers in Ikeda are separate from each other therefore a first window controlled by a first controller can proceed to close whether or not a checking circuit detects a blocking signal from the second controller. Applicant is not sure what point the examiner is trying to make. Claim 11 includes the feature of a blocking signal

generator that generates a blocking signal when at least one of the first and second window panes is approaching a fully closed position, and a checking circuit that checks whether one of the first and second controllers is transmitting a blocking signal.

The examiner seems to be admitting that Ikeda does not teach the use of a checking circuit. The examiner argues that the first controller closes the first window regardless of what position the second window is in (last line of Page 11 to first two lines of Page 12 of Official Action dated July 27, 2005), so how can Ikeda disclose a checking circuit?

There is absolutely no disclosure in Ikeda of the features of the claimed invention as set forth in claim 11, let alone a disclosure of the features of claims 12 and 15-18.

Claims 13-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda (JP 10-102905) in view of Itoh (US 4870333). For the reasons set forth above, Ikeda does not disclose, suggest, or teach the claimed invention. Itoh does not make up for the deficiencies of Ikeda.

The examiner has requested applicant amend the claims, however, the examiner's primary references, i.e. Cregeur and Ikeda do not disclose, suggest, or teach the claimed features. Applicant's representative requests a telephone interview with the examiner so that applicant can more fully understand the examiner's position with regard to the claim language. For the many reasons set forth above, applicant respectfully asserts that the claims in their current form are clearly allowable over the recited references.

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All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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Dated: October 13, 2005

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (571) 273-8300, on October 13, 2005.

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